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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 STANFORD P. BRYANT,

12 Plaintiff,

13 vs.
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15 T. ARMSTRONG, et al.,
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17 Defendants.
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CASE NO. 08-CV-2318 W (RBB)

**ORDER (1) ADOPTING REPORT
AND RECOMMENDATION
[DOC. 117], (2) GRANTING IN
PART AND DENYING IN PART
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT [DOC.
91], AND (3) DENYING
PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT [DOC.
92]**

20 On December 12, 2008, Plaintiff Stanford Paul Bryant, a state prisoner
21 proceeding pro se and in forma pauperis, filed a Complaint pursuant to 42 U.S.C. §
22 1983 [Doc. 1]. On March 3, 2009, he filed a First Amended Complaint [Doc. 3]. The
23 ten named Defendants moved to dismiss Plaintiff's First Amended Complaint [Doc.
24 Nos. 15, 18]. This Court issued an order adopting Magistrate Judge Ruben B. Brooks'
25 Report and Recommendation to Grant in Part and Deny in Part Defendants' Motion
26 to Dismiss Plaintiff's First Amended Complaint [Doc. Nos. 27, 37].

27 On June 23, 2010, Plaintiff filed a Second Amended Complaint [Doc. No. 39].
28 All ten Defendants moved to dismiss the Second Amended Complaint [Doc. No. 40],

1 which was granted in part and denied in part [Doc. Nos. 46-47]. The six remaining
 2 Defendants– Armstrong, Catlett, Janda, Lizarraga, Ochoa, and Trujillo– filed their
 3 Answer [Doc. No. 49].

4 On December 23, 2011, Defendants filed their Motion for Summary Judgment
 5 [Doc. No. 91]. On the same day, Plaintiff filed his own Motion for Summary Judgment
 6 [Doc. No. 92]. Plaintiff and Defendants both oppose [Doc. No. 96, 101]. On August
 7 3, 2012, United States Magistrate Judge Ruben B. Brooks issued a Report and
 8 Recommendation (the “Report”) recommending that Defendants’ Motion for Summary
 9 Judgment be granted in part and denied in part. (*Report* 3[Doc. 117].) The Report also
 10 recommended that Plaintiff’s Motion for Summary Judgment be denied. (*Id.*) In
 11 addition, the Report ordered the parties to file written objections by August 29, 2012,
 12 and any reply to the objections by September 12, 2012. (*Id.*) On August 29, 2012,
 13 Defendants filed an Objection to the Report’s recommendations [Doc. 118].

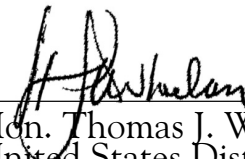
14 Pursuant to Rule 72 of the Federal Rules of Civil Procedure and 28 U.S.C. §
 15 636(b)(1), the Court “must make a *de novo* determination of those portions of the
 16 report . . . to which objection is made,” and “may accept, reject, or modify, in whole or
 17 in part, the findings or recommendations made by the magistrate [judge].” 28 U.S.C.
 18 § 636(b)(1); see also United States v. Remsing, 874 F.2d 614, 617 (9th Cir. 1989).
 19 Having conducted a *de novo* review of the Report, the Court concludes that Judge
 20 Brooks issued an accurate Report and well-reasoned recommendation that the
 21 Defendant’s Motion for Summary Judgment be granted in part and denied in part and
 22 Plaintiff’s Motion for Summary Judgment be denied. Accordingly, the Court **ADOPTS**
 23 the Report [Doc. No. 117] in its entirety, **GRANTS in part** and **DENIES in part**
 24 Defendants’ Motion for Summary Judgment [Doc. No. 91], **DENIES** Plaintiff’s Motion
 25 for Summary Judgment [Doc. No. 92], and **ORDERS AS FOLLOWS**:

- 26 1. With respect to the equal protection cause of action in count one against
 27 Defendant Armstrong on a class-of-one theory, Defendant Armstrong’s
 28 Motion for Summary Judgment is **GRANTED**.

2. With respect to the retaliation cause of action in count three, Defendant Armstrong's Motion for Summary Judgment is **GRANTED**.
3. With respect to the retaliation cause of action in count three, Defendant Ochoa's Motion for Summary Judgment is **GRANTED**.
4. With respect to the retaliation cause of action in count three, Defendant Janda's Motion for Summary Judgment is **GRANTED**.
5. Defendants' Motion for Summary Judgment in all other respects is **DENIED**.
6. Plaintiff's Motion for Summary Judgment is **DENIED**.

IT IS SO ORDERED.

DATED: March 11, 2013



Hon. Thomas J. Whelan
United States District Judge